EXHIBIT 24

(6) [illegible] other costs not approved in the grant [illegible] budget.

§ 208.12 Interest and other income.

(a) Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577), a State, as defined in section 102 of that Act, will not be held accountable for interest earned on grant funds, pending their disbursement for program purposes. A State, as defined in the Intergovernmental Cooperation Act, section 102, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All other grantees must return to the Social and Rehabilitation Service all interest earned on grant funds.

(b) All grantees must return to the Social and Rehabilitation Service a part of any other project income proportionate to the grant contribution to the support of the project.

§ 208.13 Equipment.

Items of equipment purchased with project funds are to be used for the purposes of the project, and the grantee shall maintain complete equipment inventory and adequate property controls.

§ 208.14 Control of project funds or services.

Funds or services made available to the project for project purposes, whether or not utilized to meet the grantee's share of the cost of the project, are under the control of the grantee and expended and utilized in accordance with this part, policies and procedures governing the project, and the project plan and budget as approved.

§ 208.15 Effect of State or local law.

Except as otherwise authorized, where the grantee is a public agency, administrative provisions of State or local law applicable to the moneys appropriated to the public agency shall apply to the project funds.

§ 208.16 Termination.

A grant may be terminated in whole or in part at any time at the discretion of the Administrator of Social and Rehabilitation Service. Noncancellable obligations of the grantee properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

§ 208.17 Records and reports.

(a) The grantee shall maintain such records, including medical, fiscal, and other health records, and make such reports as the Bureau may prescribe.

(b) All fiscal transactions by a grantee relating to grants under this part are subject to audit by the Department to determine whether expenditures have been made in accordance with this part, policies and procedures governing the [illegible] and the project plan and budget as approved.

§ 208.18 Copyright.

The Government of the United States reserves a royalty free, nonexclusive license to use and authorize others to use all copyrightable or copyrighted material resulting from a project.

§ 208.19 Effect of payment.

Neither the approval of a project plan nor any certification of funds or payment to a grantee pursuant thereto shall be deemed to waive the obligation of the grantee to observe before or after such action any Federal requirements, or to waive the right or duty of the Administrator of Social and Rehabilitation Service to withhold funds for noncompliance with Federal requirements.

Effective date. The regulations in this part shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 15, 1969

JOSEPH E. MEYERS,
Acting Administrator, Social and Rehabilitation Service.

Approved: January 18, 1969

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-1002 Filed, Jan. 24, 1969; 8:50 a.m.]

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 226—PURCHASE OF SERVICES UNDER PUBLIC ASSISTANCE PROGRAMS

Chapter II of Title 45 of the Code of Federal Regulations is amended by adding a new Part 226 as set forth below. This part is added to provide regulations for the provision of services by purchase from public, nonprofit or proprietary private agencies, or individuals, in the programs administered under Title I, IV—Part A, X, XIV, or XVI of the Social Security Act, pursuant to the 1967 amendments to the Act.

Sec.
226.1 State plan requirements.
226.2 Federal financial participation.

AUTHORITY: The provisions of this Part 226 issued under sec. 1102, 49 Stat. 647, 42 U.S.C. 1302.

§ 226.1 State plan requirements.

(a) A State plan under Title I, IV—Part A, X, XIV, or XVI of the Social Security Act which authorizes the provision of services by purchase from other State or local public agencies, from nonprofit or proprietary private agencies or organizations, or from individuals, must, with respect to services which are purchased:

(1) Include a description of the scope and types of services which may be purchased under the State plan;

(2) Provide that the State or local agency will retain continuing basic responsibility for determination [illegible]

(3) The eligibility of individuals for services; and

(4) The authorization, selection, quality, effectiveness, and execution of a plan or program of services suited to the needs of an individual or of a group of individuals;

(3) Provide that the State agency will work with established and newly organized suppliers of purchased services to provide consultation and technical assistance, to assure satisfactory performance in providing such services, including periodic review, and to develop new and more effective approaches and methods of delivering purchased services;

(4) In the case of services authorized under the Vocational Rehabilitation [illegible] provide that services will be obtained from the State vocational rehabilitation agency when that agency is willing and able to provide them, and that such services will be purchased from another source only when they are not obtainable from the State vocational rehabilitation agency;

(5) Assure progressive development of arrangements with a number and variety of agencies and other sources which meet applicable standards as to quality of services and rates of payment with the aim of providing opportunities for individuals to exercise choice with regard to the source of purchased service;

(6) Assure that the sources from which services are purchased are licensed, approved as meeting State licensing standards, meet applicable accrediting standards, or in the absence of licensing or accrediting standards, meet standards or criteria established by the State agency to assure quality of service, including standards appropriate for services provided by new self-help groups and other organizations for which licensing or accrediting do not exist; and

(7) (i) Provide for the establishment of rates of payment for such services which:

(a) Do not exceed the amounts reasonable and necessary to assure quality of services, and in the case of services purchased from other public agencies, are in accordance with the cost reasonably assignable to such services; and

(b) Whenever possible are based on consideration of full cost of the services;

(ii) Describe the methods used in establishing and maintaining such rates; and

(b) Indicate that information to support such rates of payment will be maintained in accessible form.

(b) In the case of services provided, by purchase, as emergency assistance to needy families with children under Title IV—Part A, the State plan may provide for an exception from the requirements in subparagraphs (5), (6), and (7) of paragraph (a) of this section, but only to the extent and for the period necessary to deal with the emergency situation.

(c) All other requirements governing [illegible]

of this section are applicable to the purchase of services including:

(1) General provisions such as those relating to single State agency, fair hearings and grievances, safeguarding of information, civil rights, and financial control and reporting requirements; and

(2) Specific provisions as to the programs of services such as those on required services, State-wideness and maximum utilization of other agencies providing services, to the extent feasible.

§ 226.2 Federal financial participation.

(a) Federal financial participation is available in expenditures for purchase of services under the State plans listed in § 226.1 to the extent that payment for purchased services is in accordance with rates of payment established by the State which do not exceed the amounts reasonable and necessary to assure quality of service and, in the case of services purchased from other public agencies, the cost reasonably assignable to such services.

(b) Services which may be purchased with Federal financial participation are those for which Federal financial participation is otherwise available under Title I, IV—Part A, X, XIV, or XVI of the Social Security Act and which are included under the approved State plan.

(c) Payments for subsistence (including payments for foster care), other items of individual or family need normally included in assistance payments, and medical or remedial care or services are not considered to be service costs. However, Federal financial participation is available in expenditures for the purchase of services which include [illegible] or medical care items (as contrasted with payments made to provide financial or medical assistance), such as:

(1) Subsistence and medical care when they are included as an essential component of the furnishing of services in an institutional setting and cannot be separately identified, such as in a comprehensive rehabilitation center; and

(2) Under Title IV—Part A of the Act, medical care for such items as:

(i) Family planning services; and

(ii) Medical examinations required for child care staff, when not otherwise available.

(For details as to these and other special conditions, see the pertinent regulations, such as those for emergency assistance to needy families with children, § 233.120 of this chapter, and services to children and families under Title IV—Part A of the Act, to be published at a later date.)

Effective date. The regulations in this part shall be effective on the date of their publication in the FEDERAL REGISTER.

Dated: January 15, 1969.

JOSEPH H. MEYERS,
Acting Administrator, Social and Rehabilitation Service.

Approved: January 18, 1969.

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-1017; Filed, Jan. 22, 1969; 8:[illegible] a.m.]

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Subpart [illegible]—General [illegible]

[illegible]

Interim Policy Statement No. 6 setting forth regulations to implement section 1902(a)(30) of title XIX of the Social Security Act, with respect to reasonable charges for medical services in the medical assistance program, was published in the FEDERAL REGISTER of July 17, 1968 (33 F.R. 10233). The views of interested persons were requested, received, and considered, and, in the light thereof, certain changes in the regulation were made.

(a) *Drugs.* Comments were received concerning the use of the term "actual acquisition cost" in the Interim Policy Statement. In its place, other definitions were suggested such as invoice price, Red Book/Blue Book price, etc. The policy has been changed to permit flexibility in a State's operational definition of drug cost.

Comments were received concerning the policy statement which based the upper limit for payment on a "fixed fee." In its place, there was suggested a policy based on usual and customary charges or on a percentage markup. The policy has been changed to permit a State to set the upper limit for payment based on a dispensing fee for individual pharmacies, by categories based on size, geographic or economic area, and factors such as physician, [illegible]. A State may also use a second [illegible] based on customary charges which are reasonable.

Comments were received concerning the policy statement requiring the upper limit of payment to be based on the lower of cost plus a fee or the charge to the public. The usual comment was that such a policy would have an inflationary effect on all drug charges. The policy has been changed by deleting the requirement and inserting language that will promote the same end of economy.

Comments were received concerning the policy statement requiring the upper limit of payment for over-the-counter drugs (nonlegend items) to be based on the pharmacist's price to the public. It was stated that a billing allowance should be permitted for handling and administrative costs. The policy has been changed to permit a State some leeway in the matter.

(b) *Other services.* Comments were received concerning the policy statement requiring States to determine the upper limit of reasonable charges by determining the usual payments received by providers from private patients, from intermediaries and carriers for the Social Security Administration and from other third-party insuring organizations. It was stated that payment should be on the basis of usual and customary charges. The policy in effect recognizes such a method to the extent that it is the basis for settlement recognized by other third-party payers. However, in the interest of enlisting the widest acceptance by medical providers of the title XIX program, policy has been changed to provide for [illegible] on the basis of customary charges [illegible] reasonable.

Accordingly, such [illegible]

[illegible] forth below.

§ 250.30 Reasonable charges.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Include a description of the policy and the methods to be used in establishing payment rates for each type of care or service listed in section 1905(a) of the Act that is included in the State's medical assistance program.

(2) Provide that payments for care or service are not in excess of the upper limits described in paragraph (b) of this section.

(3) Provide that the single State agency will take whatever measures are necessary to assure appropriate audit of records wherever reimbursement is based on costs of providing care or service, or fee plus costs of materials.

(b) *Upper limits.* The upper limits for payments for care and services under a medical assistance plan are as follows: The State agency may pay less than the upper limit except for services described in subparagraph (1) of this paragraph.

(1) *Inpatient hospital services.* (i) For each hospital also participating in the Health Insurance for the Aged program under title XVIII of the Social Security Act, apply the same standards, cost reporting period, cost reimbursement principles, and method of cost apportionment currently used in computing reimbursement to such hospital under title XVIII of the Act.

(ii) For each hospital not participating in the program under title XVIII of the Social Security Act, apply the standards and principles described in sections 1-1 through 1-12 of "Principles of Reimbursement for Provider Costs" (Health Insurance Manual-5 Revised) (Code of Federal Regulations, Title 20, Chapter III, Part 405) and the related §§ 405.415-405.429 in Health Insurance Regulations-4 (9/67) (Code of Federal Regulations, Title 20, Chapter III, Part 405) issued by the Social Security Administration and either (*a*) one of the acceptable cost apportionment methods in section 2-2 of HIM-5 (Revised) or (*b*) the "Gross RCC Method" of cost apportionment applied as follows: The total allowable annual inpatient cost of operating a hospital is divided by the total annual charges for inpatients; the resulting percentage is applied to the bill of each inpatient under the medical assistance program.

(2) *Drugs.* (i) The upper limit for payment for prescribed drugs—whether legend items (for which a prescription is required under Federal law) or nonlegend items—shall be based on the following methods:

(*a*) Cost as defined by the State agency plus a dispensing fee. The dispensing fee should be ascertained by analysis of pharmacy operational data which includes such components as overhead, professional services, and profit

indices to be considered should include payment practices of other third-party organizations, including other Federal programs. Both the cost and the dispensing fee may vary according to the type and location of the pharmacy and according to whether the dispensing of drugs by a physician or by an outpatient drug department of an institution, and according to whether the drug is a legend or a nonlegend item. In evaluating a dispensing fee by analysis of operational data, the objective of the State agency should be to insure that the average prescription price paid by the State agency does not exceed the average prescription price paid by the general public.

(b) The method described for Other Services in subparagraph (3)(i) of this paragraph.

(ii) The provisions of subdivision (i) of this subparagraph do not apply to payment for drugs in institutions where drugs are included in a reimbursement formula.

(iii) The provisions of subdivision (i) of this subparagraph do not apply where a public agency makes bulk purchase of drugs. In such cases payment will be made in accordance with the governmental statutes and regulations governing such purchases.

(iv) The use of a formulary is optional, as are provisions for use of generic drugs. Where either is employed, there must be standards for quality, safety, and effectiveness under the supervision of professional personnel.

(3) *Other services*. The upper limit for payment for other services shall be the following:

(i) [illegible] charges [illegible] reason. The prevailing charges in the locality for comparable services under comparable circumstances shall set the upper limit of payments. In reviewing prevailing charges for reasonableness, the State agency should consider the combined payments received by providers (for furnishing comparable services under comparable circumstances) from the carriers under title XVIII and beneficiaries under title XVIII of the Social Security Act and the combined payments received from other third-party insuring organizations and their regular policy holders and subscribers using whichever of these criteria or other criteria are appropriate to the [illegible] provider service.

(ii) [illegible] Reasonable [illegible] standards and [illegible] for computing reimbursement [illegible] applicable to such institutions [illegible] Social Security [illegible]

[illegible] or other arrangements. The upper limit for payment for services [illegible] on a prepaid capitation basis [illegible] established by ascertaining what other third parties are paying for comparable services under comparable circumstances. The cost for providing a given scope of services to a given number of individuals under a capitation arrangement [illegible] the cost of [illegible]

(c) Waiver [illegible] limitations on reimbursement imposed by the provisions of this section may be waived by the Secretary with respect to experiments conducted under the provisions of section 402, Public Law 90–248, Incentives for Economy Experimentation.

(d) *Federal financial participation*. Federal financial participation is available for payments, within the upper limits described in paragraph (b) of this section, in accordance with the provisions of the State plan.

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date. The regulations in this section are effective on the date of their publication in the FEDERAL REGISTER.

Dated, January 18, 1969.

JOSEPH H. MEYERS,
Acting Administrator, Social and Rehabilitation Service.

Approved: January 19, 1969

WILBUR J. COHEN,
Secretary.

[F.R. Doc. 69-10[illegible]; Filed, Jan. 21, 1969; [illegible]]

Chapter IV—Social and Rehabilitation Service (Rehabilitation Programs), Department of Health, Education, and Welfare

PART 407—NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

Notice of proposed regulations was published in the FEDERAL REGISTER of December 4, 1968 (33 F.R. 18046) pertaining to the entry into an agreement [illegible] payment of the costs of establishment of a center for vocational rehabilitation of handicapped individuals who are both deaf and blind, to be known as the National Center for Deaf-Blind Youths and Adults, authorized by section 16 of the Vocational Rehabilitation Act.

No objections have been received and the proposed regulations are hereby adopted without change. Accordingly, Chapter IV of Title 45 of the Code of Federal Regulations is amended by adding a new Part 407 as set forth below.

Federal financial assistance extended under this part is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

Sec.
407.1 [illegible]
407.2 [illegible]
407.3 [illegible]
407.4 Agreement.
407.5 [illegible] of Government to recover funds.
407.6 Selection of grantee.

AUTHORITY: The provisions of this Part 407 [illegible] sec. 7(b) [illegible] (29 U.S.C. [illegible] sec. 16 [illegible] Stat. 251, [illegible] Stat. 304, 29 U.S.C. [illegible]

§ 407.1 Terms.

For the purposes of this part—

[illegible] Administrator, Social and Rehabilitation Service.

[illegible] have the same meaning [illegible] § 401.1 of this chapter.

(c) "Center" means the National Center for Deaf-Blind Youths and Adults;

(d) "Construction" means construction of new buildings, acquisition of existing buildings, and expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such new, newly acquired, expanded, remodeled, altered, or renovated buildings; and includes the cost of architects' fees and acquisition of land in connection with any of the foregoing, but does not include the cost of off-site improvements;

(e) "Deaf-blind" and "deaf and blind" refer to persons who have substantial visual and hearing losses, such that the combination of the two causes extreme difficulty in learning;

(f) "Grantee" means the public or nonprofit private agency or organization selected as the party to the agreement to receive funds for the construction and operation of the National Center for Deaf-Blind Youths and Adults.

§ 407.2 Purpose.

An agreement [illegible] for the purpose of paying all or part of the costs of the establishment and operation, including construction and equipment, of a center for the vocational rehabilitation of handicapped individuals who are both deaf and blind and to accomplish the purposes of section 16(a) of the Act, which shall be known as the National Center for Deaf-Blind Youths and Adults.

§ 407.3 Proposals.

The scope of the commitment in the proposal for an agreement under section 16 of the Act shall extend at least to the following areas of activity:

(a) The construction of a facility for the vocational rehabilitation of handicapped individuals who are deaf and blind, which will be especially adapted to the needs of the deaf-blind and in compliance with appropriate safety standards, and which in its construction and operation will meet applicable labor standards and other pertinent Federal statutory and regulatory requirements;

(b) The provision of services, particularly specialized intensive services for vocational rehabilitation of the deaf-blind;

(c) The provision of training for professional personnel and allied personnel [illegible] to staff facilities specially designed to provide such services;

(d) The conduct of research with [illegible] the problems of the deaf-blind [illegible]

(e) Aid in activities for the expansion and improvement of services for the deaf-blind; and

(f) Aid in activities for improvement of public understanding about the problems of the deaf-blind.

§ 407.4 Agreement.

The agreement shall:

[illegible]